

October 13, 2002

RE: In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991  
CG Docket No. 02-278

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Telemarketing has exploded in the last ten years, and typical Americans have become totally fed up with telemarketers interrupting them while they try to eat dinner, work from home, watch their kids, socialize with friends, etc. The telemarketing industry calls more than 225,000 telephone numbers every minute, with the predictive dialer firepower to keep increasing those numbers by staggering rates. In response to this invasion into almost every home in America, public anger and frustration has reached the boiling point.

Survey after survey reveals that 75-80% of consumers consider telephone solicitations an abuse of their privacy and want to get rid of all telemarketers. State lawmakers, attorney generals' offices, and other consumer or regulatory groups report that complaints about telemarketing rate near the top of all contacts from consumers. More than 40% of all telephone users subscribe to Caller ID, mostly as an anti-telemarketing shield. Millions more pay for unlisted phone numbers or other features to keep telemarketers at bay – at a price to consumers of more than \$2 billion a year!

I appeal to the Commission to implement a national DNC list. A national DNC list will balance the rights of consumers against the interests of the industry. Such a national DNC list adopted by the FCC should not pre-empt existing state DNC lists. Regardless of their protestations, it was the industry that initially insisted on the current national scheme of company-specific do-not-call lists, knowing that such company-specific lists would prove ineffectual in resolving the problem. The two-dozen state do-not-call lists are a natural response to federal under-regulation that has existed to date. Had it not been for the industry's attempt to protect itself at the expense of the people, it would not now be surrounded by alligators in a swamp of their own creation. If the FCC strengthens the TCPA appropriately, state lists will disappear of their own accord.

Furthermore, I strongly encourage the Commission to reconsider its decision to exempt commercial telemarketers who solicit on behalf of nonprofit clients. One only has to read the Congressional record and the statute (from which such an exemption is conspicuously absent) to know that it was never Congress' intent to exempt commercial telemarketers from TCPA liability.

What is even clearer still is that some telemarketing firms limit their clients to nonprofits because by doing so, they believe they become "untouchable". These telemarketers in particular have left a trail of deceptive-practices, lawsuits and allegations of fraud that stretches across the country. According to the Denver Post, one such company, Civic Development Group, has been sued or investigated in 20 states and paid more than \$745,000 in assessments<sup>1</sup>. Another, Callan, agreed to a five-year ban from soliciting in North Carolina in 1996 and the company has been sued in at least six states for deceptive practices and has paid assessments exceeding \$1.2 million.

Because the clients of these commercial telemarketers are frequently "badge" charities, consumers are more likely to give because they believe they are backing a noble cause, supporting the people who protect our homes and families. In reality, these commercial solicitors line their own pockets while taking advantage of the public's trust in law enforcement.

Some of the most egregious telemarketing calls I have received have come from commercial telemarketers soliciting for badge charities. Professional Speaking Inc. of Milwaukee, has called my home numerous times soliciting for badge charities, despite my repeated do-not-call requests. What's more, when asked,

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<sup>1</sup> See <http://63.147.65.175/charity/charity0211.htm>

PSI lied to me about their identity and refused to reveal what percentage of my donation would go to the charity. According to PSI, that figure was “confidential”.

The law firm of Copilevitz & Canter represents Professionally Speaking, as well as numerous other “exempt” telemarketers and their clients (many with very “colorful” past histories<sup>2</sup>). It is the habit of the firm to assert the “on behalf of exemption”, denying any liability on behalf of these clients.

Unfortunately current state laws do little to protect consumers from commercial telemarketers and their nonprofit clients. This makes an even more compelling reason for the Commission to remove the exemption and extend liability to these commercial telemarketers hiding behind the nonprofit status of their clients. In fact, unless the Commission does so, even under the scheme of a national DNC list, commercial telemarketers such as Civic Development Group and Professionally Speaking could continue to call repeatedly with reckless abandon, taking advantage of consumers’ good will.

I trust that the Commission will see through the “big lie” of the industry – that the public approves of telemarketing by pointing to billions of dollars in annual telemarketing sales, all the while failing to point out that 70% of that revenue is actually generated by calls that consumers initiate to companies. Furthermore, while the industry insists that it can self-regulate telemarketing abuse on its own, through such measures as the do-not-call list compiled by the Direct Marketing Association, the reality is that less than 10% of all telemarketing firms actually belong to the association and in all but one or two states nothing compels any of them to use the DMA list.

The day of reckoning has arrived for the telemarketing industry. As such I plead with the Commission to act upon residential subscribers’ demands for freedom from unwelcome telemarketers in the privacy of their homes.

Respectfully submitted,

Diana Mey

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<sup>2</sup> See:

<http://www.mult-sclerosis.org/news/Jan1999/Charityprobedovermisuseoffunds.html>

<http://www.usatoday.com/news/nation/2001-05-03-charity.htm>

<http://63.147.65.175/charity/charity0211h.htm>

[\[boston.org/readings/Some%20Charities%20Cash%20In%20by%20Playing%20the%20Name%20Game.htm\]\(http://www.eureka-boston.org/readings/Some%20Charities%20Cash%20In%20by%20Playing%20the%20Name%20Game.htm\)](http://www.eureka-</a></p></div><div data-bbox=)